

Fresno, California

March 17, 2011

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Oliver Baines III	Councilmember
	Andreas Borgeas	Councilmember
	Clinton Olivier	Acting Council President
	Sal Quintero	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Councilmember
	Lee Brand	Council President

Mark Scott, City Manager  
Bruce Rudd, Assistant City Manager  
Jim Sanchez, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

President Brand called for, and a Moment of Silence was observed, for the victims of the natural disaster in Japan.

Councilmember Baines gave the invocation and President Brand led the Pledge of Allegiance.

**SPECIAL NOTICE ADD-ON: RESOLUTION NO. 2011-44** – EXPRESSING SUPPORT TO FRESNO’S SISTER CITY KOCHI, JAPAN AND THE PEOPLE OF JAPAN IN THE WAKE OF THE RECENT DISASTER

Councilmember Xiong, introduced the item and supporters in attendance, spoke to the strong connection/tie to Japan in terms of the Japanese-Americans in Fresno and the valley and the city’s relationship/partnership with Sister City Kochi, and stated an official Council resolution was being requested so it could be sent to Japanese officials and the Consulate.

City Clerk Klisch read the resolution into the record.

Judge Dale Ikeda, Co-Chair of the Fresno-Kochi Sister City Committee, stated he appreciated the support for this resolution and urged adoption, advised impacts/damages to Kochi were relatively minor compared to northern Japan and further elaborated, advised the committee had been in contact with the Japanese Consulate in San Francisco and read a letter of appreciation from the Consul General to city officials extending his thanks for this resolution of support, and later submitted into the record two letters, one from himself and one from Councilmember Xiong, to Japan Mayor Seiya Okazaki and other officials.

On motion of Councilmember Xiong, seconded by President Brand, duly carried, RESOLVED, the above entitled Resolution No. 2011-44 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

Councilmember Borgeas commented briefly on his trip to Japan last year with a leadership group and how Japan is by far one of our closest friends, added he hoped as many resources as possible were being sent to Japan to contain any of the fallout and help with the rebuilding, and thanked the Sister City Committee for their work adding the relationship with Kochi was appreciated.

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**PROCLAMATION OF “NATIONAL SAFE PLACE WEEK” – COUNCILMEMBER BAINES**

Read and presented.

PROCLAMATION OF “NATIONAL AG WEEK” – PRESIDENT BRAND

Read and presented.

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**APPROVE MINUTES OF MARCH 8 AND 10, 2011:**

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the minutes of March 8 and 10, 2011, approved as submitted, with a correction made to the March 8<sup>th</sup> minutes on Page 157-73, 1<sup>st</sup> paragraph/3<sup>rd</sup> line, changing the word “*expended*” to “*expanded*”.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

Councilmember Westerlund (1) gave an update on the proposal to eliminate redevelopment agencies stating at this time the assembly was one vote shy of passing the proposal and would have a third vote this date, stated although the democrats were supportive the republican caucus was standing together in opposition to the proposal, and spoke to the proposal being unconstitutional; and (2) thanked the City and partners on the private side for the Fresno Food Expo last Friday stating it was a great event and the start of a positive program.

Councilmember Baines (1) announced he was officially a grandfather as his daughter had a baby girl last Thursday; and (2) acknowledged the EOC Senate Council in attendance and advised he had the honor of speaking to the youth group yesterday and commended them for taking an active role in our community.

Councilmember Quintero (1) also commended the City on the food expo stating it was the beginning of something great; (2) thanked the RDA and staff on the demolition of the last building on the Ventura corridor at Eighth Street for an affordable housing project; and (3) citing the city’s diverse ethnic community wished those city employees of Irish ancestry a “Happy St. Patrick’s Day”.

President Brand stated due to copper theft he was seeing more streetlights out in his district and acknowledging the city’s limited resources requested staff do their best to address this public safety problem.

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**APPROVE AGENDA:**

(10:00 A.M.) HEARING ON PLAN AMENDMENT APPLICATION NO. A-10-005 AND FINAL EIR NO. 10136 FILED BY THE CITY OF FRESNO AIRPORTS DEPARTMENT TO AMEND THE FRESNO YOSEMITE INTERNATIONAL ENVIRONS PLAN PERTAINING TO URBANIZED LAND ON AND AROUND THE FRESNO YOSEMITE INTERNATIONAL AIRPORT DEFINED AS THE AIRPORT INFLUENCE AREA (Continue to March 31, 2011, at 10:45 a.m.)

Continued as noted.

(10:15 A.M.) CONTINUED HEARING REGARDING REVERSION OF ACREAGE OF THE FINAL MAP OF TRACT 4983 (Continue to March 31, 2011, at 11:00 a.m.)

Continued as noted.

(1-F) APPROVE ACCEPTANCE OF GRANT AWARD FOR \$84,800 IN ADDITIONAL GRANT FUNDING FROM THE FY 2007 PUBLIC SAFETY INTEROPERABILITY COMMUNICATION GRANT PROGRAM (PSIC), AND AUTHORIZE THE POLICE CHIEF AND FIRE CHIEF TO COMPLETE ALL REQUIRED DOCUMENTS

#1 RESOLUTION - 79<sup>TH</sup> AMENDMENT TO AAR 2010-138 APPROPRIATING THE \$84,800 GRANT AWARD TO THE POLICE DEPARTMENT BUDGET

#2 RESOLUTION - AUTHORIZING THE FIRE CHIEF TO ENTER INTO A CONTRACT WITH DIGITAL SANDBOX OF McLEAN, VA, TO PROVIDE PROFESSIONAL CONSULTANT SERVICES WITHOUT ADVERTISED COMPETITIVE BIDDING

After approval of the minutes ACM Rudd requested the above Item **1-F** be moved to General Administration as it dealt with sole sourcing, and City Clerk Klisch advised item #2 did not involve a resolution.

**(9:00 A.M. #1-A)** ADOPT FINDINGS OF A MITIGATED NEGATIVE DECLATION FOR ACQUISITION OF FOUR PARCELS COMPRISING 35.137 ACRES NEAR THE NORTHEAST CORNER OF BRAWLEY AND NEILSEN AVENUES FOR DEVELOPMENT OF A GROUNDWATER RECHARGE FACILITY

**#1** RESOLUTION – 65<sup>TH</sup> AMENDMENT TO AAR 2010-138 APPROPRIATING \$1,804,900 FOR ACQUISITION OF THE FOUR PARCELS

**#2** AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY, SUBJECT TO CITY ATTORNEY APPROVAL AS TO FORM

Removed from the agenda by staff.

On motion of Councilmember Westerlund, seconded by Councilmember Baines, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

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#### **ADOPT CONSENT CALENDAR:**

Councilmember Westerlund removed Items **1-A** and **1-G** from the Consent Calendar for discussion/action.

**(1-B)** RATIFY AND APPROVE AMENDMENT NO. II TO THE 2006 CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (PROPOSITION 1C) CALHOME PROGRAM AGREEMENT TO (1) INCLUDE FIRST-TIME HOMEBUYER MORTGAGE ASSISTANCE ACTIVITIES, AND (2) EXTEND THE TERM OF THE AGREEMENT TO JANUARY 28, 2012

**#1** APPOINT AND AUTHORIZE THE DOWNTOWN AND COMMUNITY REVITALIZATION (DCR) DIRECTOR TO SIGN ALL NECESSARY PROGRAM DOCUMENTS FOR PARTICIPATION IN THE CALHOME PROGRAM, SUBJECT TO CITY ATTORNEY APPROVAL AS TO FORM

**(1-C) RESOLUTION NO. 2011-45** – AUTHORIZING (1) SUBMISSION OF AN APPLICATION TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR HIGH SPEED RAIL STATION AREA PLANNING GRANT FUNDS FROM THE TRANSPORTATION PLANNING GRANTS PROGRAM IN THE AMOUNT OF \$300,000; AND (2) THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE GRANT APPLICATION DOCUMENTS

**(1-E)** APPROVE APPOINTMENTS OF DAN PAYNE AND CONNER MURPHY TO THE HOUSING AND COMMUNITY DEVELOPMENT COMMISSION (HCDC) – MAYOR’S OFFICE

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand
Noes	:	None
Absent	:	None

**(1-D) ADOPT FINDING OF A CEQA CLASS 1 AND 2 CATEGORICAL EXEMPTION (EXISTING FACILITIES AND REPLACEMENT OR RECONSTRUCTION) FOR THE SEWER PIPELINE AND JUNCTION STRUCTURE REHABILITATION PROJECT IN THE FRUIT AND JENSEN AVENUES INTERSECTION**

**#1 AWARD A CONTRACT FOR THE PROJECT TO INSITUFORM TECHNOLOGIES, INC., OF CHESTERFIELD, MISSOURI, IN THE AMOUNT OF \$197,900**

**#2 RESOLUTION NO. 2011-47 - 75<sup>TH</sup> AMENDMENT TO AAR 2010-138 APPROPRIATING \$157,900 FOR THE FRUIT AND JENSEN SEWER PROJECT**

Councilmember Baines registered a “no” vote on the contract award only (#1).

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the finding of a CEQA Class 1 and 2 Categorical Exemption and the above entitled Resolution No. 2011-47 hereby adopted, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand  
Noes : None  
Absent : None

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, a contract in the amount of \$197,900 for the Fruit/Jensen sewer project hereby awarded to Insituform Technologies, Inc, of Chesterfield, Missouri, as recommended, by the following vote:

Ayes : Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand  
Noes : Baines  
Absent : None

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**CONTESTED CONSENT CALENDAR:**

**(1-A) APPROVE A LICENSE AGREEMENT WITH CHILDREN’S MUSICAL THEATERWORKS (CMT) FOR USE OF THE MEMORIAL AUDITORIUM THEATER**

Councilmember Westerlund expressed concern with CMT having over \$20,000 in past due fees and presented questions and comments relative to reason for the arrears and why this issue was just now coming forth, what the nightly rental cost was for the theater, perception that the old agreement contained an open inspection requirement on CMT’s financial data, surprise at the contract requirement calling for CMT’s payment at the end of the season **(2 – 0)**, what the course of action will be if CMT does not make the first installment payment in April, what type of “like contribution” could be made in lieu of the dollar payment, what steps the City took when CMT’s payment was not made, and concern with the “struggling” excuse as the city organization was also struggling, with ACM Rudd and City Manager Scott responding throughout.

Councilmember Xiong stated good questions were asked and spoke briefly to past Council discussions on leases with non-profits, and along with Councilmember Baines presented questions and comments relative to the shift in key CMT board members, desire to hear from the board on their challenges and to respond to Council questions/concerns, the RFP process for operation of neighborhood centers and if that has been considered for the memorial auditorium, if any other organizations were using the building and sharing ongoing operating costs with the Veterans, if there was any clear indication that CMT will be more successful with the shift in board members, the important activities CMT provides for the community, reiteration of desire to have a CMT representative come to Council to provide an update on their organization, if CMT primarily served the youth/low-income/underserved population, if activities were free or at affordable prices, participants being youth and their families, and the economic hardship and changes CMT has made and need to give CMT an opportunity to succeed, with Mr. Rudd and Administrative Manager Melikian responding throughout.

On motion of Councilmember Baines, seconded by Councilmember Quintero, duly carried, RESOLVED, the subject License Agreement with Children’s Musical Theaterworks for the use of the Memorial Auditorium Theater hereby approved, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Brand  
Noes : Westerlund  
Absent : None

**(1-G) BILL NO. B-11 – ORDINANCE NO. 2011-9 – APPROVING PROCEDURES FOR THE ANNUAL 2011 WEED ABATEMENT PROGRAM**

Councilmember Westerlund noted this program is adopted every year and a question he gets every once in awhile is whether the City (and any related entities) holds itself to the same standard, with City Manager Scott, ACM Rudd and Public Works Director Weimiller stating it does and explained. Mr. Weimiller added a communication gap in the past in terms of which department was responsible had been addressed with a centralized process. Councilmember Westerlund spoke to property under the city’s jurisdiction and stated he just wanted to make sure things were being handled evenly across the board and thanked staff for the assurances.

On motion of Councilmember Westerlund, seconded by Councilmember Xiong, duly carried. RESOLVED, the above entitled Bill No. B-11 adopted as Ordinance No. 2011-9, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand  
Noes : None  
Absent : None

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**(9:00 A.M. #1-B) RESOLUTION NO. 2011-47 – AUTHORIZING AN APPLICATION TO THE DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, FOR A FY 2011 WATERSMART: WATER AND ENERGY EFFICIENCY GRANT IN THE AMOUNT OF \$290,198, FOR THE NEILSEN GROUNDWATER RECHARGE BASIN PROJECT (PHASE I), AND EXECUTION OF ALL APPLICATION DOCUMENTS**

Lon Martin with Provost and Pritchard Engineering, on behalf of the Public Utilities Department, reviewed the issue and recommended approval, all as contained in the staff report as submitted, and responded to comments and questions of Councilmember Westerlund relative to his request that staff provide in the future parcel maps showing which parcels are being acquired, remaining parcels, if the southwest area was also overdrafted, Leaky Acres and if putting in infrastructure has been vetted for future growth, need to develop Leaky Acres as part of the community, and if anything can be done to make Leaky Acres look more pleasing and be more functional for the public, such as a fishing hole or a biking-walking trail.

On motion of Councilmember Westerlund, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled Resolution No. 2011-47 hereby adopted, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand  
Noes : None  
Absent : None

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**(9:00 A.M. #1-C) ADOPT FINDING OF A CEQA CATEGORICAL EXEMPTION (EXISTING FACILITY AND REPLACEMENT OR RECONSTRUCTION) FOR THE FRESNO AREA EXPRESS (FAX) BUS STOP SIGN UPGRADE PROJECT  
#1 AWARD A CONTRACT FOR THE PROJECT TO CHRISP COMPANY OF FREMONT, CA, IN THE AMOUNT OF \$423,905**

Transportation Director Hamm noted this item was back from last week and gave a brief overview of the issue, all as contained in the staff report as submitted, and advised staff provided information to Council on how the bids were evaluated as requested and recommended approval. Councilmember Baines stated he appreciated the information provided and added it raised a number of other questions, and noting there would be an opportunity next week to go through the bidding process and ask questions stated he would not hold this matter up any longer and made a motion to approve staff’s recommendation. Councilmember Quintero thanked staff for doing their due diligence and going over the process with him.

On motion of Councilmember Baines, seconded by Councilmember Xiong, duly carried, RESOLVED, the subject CEQA finding hereby adopted, and a contract for the FAX bus stop sign upgrade project awarded to Chrisp Company as recommended, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand  
Noes : None  
Absent : None

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**(9:00 A.M. #2-A) BILL NO. B-8 – ORDINANCE NO. 2011-10 - AMENDING SECTION 4-107(g) OF THE FRESNO MUNICIPAL CODE RELATING TO CONTRACTS NOT REQUIRING COMPETITIVE BIDDING (SOLE SOURCING) – COUNCIL FINANCE AND AUDIT COMMITTEE MEMBERS BORGEAS, BRAND AND XIONG**

On motion of Councilmember Borgeas, seconded by President Brand, duly carried, RESOLVED, the above entitled Bill No. B-8 adopted as Ordinance No. 2011-10, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand
Noes	:	None
Absent	:	None

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**(9:00 A.M. #2-B) APPROVE A COUNCIL REPRESENTATIVE TO THE SAN JOAQUIN VALLEY AIR BOARD AND AN ALTERNATE – PRESIDENT BRAND**

City Attorney Sanchez stated staff reviewed state law and the detail associated with this appointment process and explained a vacant City seat on the air board is filled by a Special City Selection Committee, a Council majority needed to select a representative to serve on that selection committee, and that individual member would then be entitled to select an alternate. Upon question of Councilmember Borgeas Acting President Olivier stated he would take the appointment.

On motion of President Brand, seconded by Councilmember Quintero, duly carried, RESOLVED, Acting President Olivier selected the Council representative on the San Joaquin Valley Air Board Special City Selection Committee, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Westerlund, Brand
Noes	:	None
Absent	:	None

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**(9:30 A.M.) WORKSHOP AND UPDATE ON WATER METERS**

**(3 – 0)** Public Works Director Weimiller introduced the item and Assistant Public Utilities Director Andersen and UBC Revenue Manager Reams gave a PowerPoint presentation which included an Overview, Water Meter Installation Progress Report, Automated Meter Reading (AMR) System Diagram, Meter Installation Map and Timelines, and Billing System Changes. Mr. Weimiller stated it had been a great undertaking to be on schedule and commended staff for their work. Council wished Community Coordinator Kloose well and thanked her for her work and service to the city.

General discussion ensued and questions/comments were presented by Councilmembers Quintero, Xiong, Borgeas, Westerlund and President Brand relative to whether meter costs would be paid by property owners through utility rates, what the cost breakdown was for residential and commercial, if lot size determined the cost per location, commendation to staff for their work and outreach, installation contractors, if there were no options for placement of meters, if a person could pay to have a meter relocated, gated communities/master meters/options for homeowners who want their own system, if the meter installation project was on budget, request staff inform Council if the project goes over-budget, retrofitting/if installations occurred in older homes first because they were the easiest, if billing costs were on budget, and the high cost to change master meters in planned unit developments (PUDs), with Mr. Andersen, Mr. Weimiller and Mr. Reams responding throughout. President Brand also thanked Ms. Kloose for her work on this project and for the city and wished her well. There was no further discussion.

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**(1-F) APPROVE ACCEPTANCE OF GRANT AWARD FOR \$84,800 IN ADDITIONAL GRANT FUNDING FROM THE FY 2007 PUBLIC SAFETY INTEROPERABILITY COMMUNICATION GRANT PROGRAM (PSIC), AND AUTHORIZE THE POLICE CHIEF AND FIRE CHIEF TO COMPLETE ALL REQUIRED DOCUMENTS**

**#1 RESOLUTION NO. 2011-48 - 79<sup>TH</sup> AMENDMENT TO AAR 2010-138 APPROPRIATING THE \$84,800 GRANT AWARD TO THE POLICE DEPARTMENT BUDGET**

**#2 AUTHORIZE THE FIRE CHIEF TO ENTER INTO A CONTRACT WITH DIGITAL SANDBOX OF McLEAN, VA, TO PROVIDE PROFESSIONAL CONSULTANT SERVICES WITHOUT ADVERTISED COMPETITIVE BIDDING**

Interim Fire Chief Henry, representing Chief Dyer and Chief Aranaz, reviewed the issue and recommended the grant funds be accepted and the sole source contract be approved due to timeline constraints, all as included in the staff report as submitted. Councilmember Borgeas noted a code amendment was just adopted regarding sole sourcing and expressed his appreciation to city management for including the justification to sole source. Upon Councilmember Borgeas' questions Chief Henry confirmed project information had to be at Cal-EMA by April 12<sup>th</sup> to receive the funds, there was no time for a competitive bidding process, and there was no expertise in-house to do the work.

On motion of Councilmember Borgeas, seconded by Councilmember Xiong, duly carried, RESOLVED, the grant award for \$84,800 in additional grant funding from the FY 2007 Public Safety Interoperability Communication grant hereby accepted, the above entitled Resolution No. 2011-48 hereby adopted, and the Fire Chief authorized to enter into a contract with Digital Sandbox to provide professional consultant services without a formal solicitation process, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

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**UNSCHEDULED ORAL COMMUNICATIONS:**

Rusty, homeless, spoke to bills and payment by banks.

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**CLOSED SESSION:**

(‘A’) PUBLIC EMPLOYEE PERFORMANCE EVALUATION – TITLE: CITY ATTORNEY

The City Council met in closed session in Room 2125 at the hour of 10:39 a.m. to consider the above matter and the meeting was adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the City Council and hearing no objection, President Brand declared the meeting adjourned.

*Approved* on the \_\_\_\_31st\_\_\_\_day of \_\_\_\_March\_\_\_\_, 2011.

_____ Lee Brand, Council President	ATTEST: _____ Yolanda Salazar, Assistant City Clerk
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